

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

**FRANCISCO J. AGUERO,
Plaintiff,**

v.

**UNITED STATES OF AMERICA,
Defendant.**

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Civil Case No. 3:15-CV-323-M-BK

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made Findings, Conclusions and a Recommendation in this case. No objections were filed. The District Court reviewed the proposed Findings, Conclusions and Recommendation for plain error. Finding none, the Court ACCEPTS the Findings, Conclusions and Recommendation of the United States Magistrate Judge.

The Court prospectively CERTIFIES that any appeal of this action would not be taken in good faith. See 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3). In support of this certification, the Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions, and Recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). Based on the Findings and Recommendation, the Court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order. A timely notice of appeal must be filed even if the district court certifies an appeal as not taken in good faith. In the event of an appeal, Plaintiff/Petitioner may challenge this certification by filing a separate motion to proceed in forma pauperis on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed.

R. App. P. 24(a)(5).

SIGNED this 29th day of September, 2017.



BARBARA M. G. LYNN
CHIEF JUDGE